

REMARKS

Formal Matters

Claims 1-3, 5-9, 14-16, 19 and 27-31 are pending after entry of the above amendments.

Claims 4, 10-13, 17-18 and 20-26 have been canceled without prejudice to the possibility of filing one or more continuing applications directed to the subject matter recited therein.

Claims 9, 15 and 19 are currently withdrawn from consideration by the Examiner.

Claims 1-3, 5-8, 14-16 and 27 were examined.

Claims 1-3, 5-8 14-16 and 27 were rejected.

Applicants respectfully request reconsideration of the application in view of the above amendments and the remarks made herein.

No new matter has been added.

The Office Action

In the Official Action dated 08/17/2009, the Examiner requested Applicants to provide a reason why the present claimed invention is no longer considered as an interference to U.S. Patent No. 5,984,867. In response thereto, Applicants note that the foot 102 of U.S. Patent No. 5,984,867 is not rotatable relative to the blade element 42 about the axis transverse to axis A1, as shown by Figs. 5 and 6 of the patent. In contrast, the present claims recite that the foot is rotatable relative to the frame or blade that it is coupled to, about an axis transverse to the first axis.

Claims Rejected on Ground of Nonstatutory Obviousness-Type Double Patenting

Claims 5 and 27 were rejected on the ground of obviousness-type double patenting as being unpatentable over claims 1-2 and 4 of U.S. Patent No. 5, 976,171 and over claims 5-6, 8, 14-16 and 24 of U.S. Patent No. 7,288,065. The Examiner admitted that the conflicting claims are not identical, but asserted that they are not patentably distinct from each other because the current claimed invention and the patents all claim a retractor device including a ratchet mechanism.

Applicants respectfully traverse. It is respectfully submitted that none of claims 1-2 and 4 of

U.S. Patent No. 5, 976,171 and none of claims 5-6, 8, 14-16 and 24 of U.S. Patent No. 7,288,065 recite “a retractor”, contrary to the Examiner’s assertion.

It is further respectfully submitted that none of claims 1-2 and 4 of U.S. Patent No. 5, 976,171 and none of claims 5-6, 8, 14-16 and 24 of U.S. Patent No. 7,288,065 recite an actuator comprising a mechanism configured to convert a rotational movement to a translational driving force, as is now recited in instant claim 5.

In view of the above amendments and remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 5 and 27 on the ground of obviousness-type double patenting as being unpatentable over claims 1-2 and 4 of U.S. Patent No. 5, 976,171 and over claims 5-6, 8, 14-16 and 24 of U.S. Patent No. 7,288,065, as being inappropriate.

Claims Rejected Under 35 U.S.C. Sections 102/103 - Jensen

Claims 1-3, 5-8 and 14-16 were rejected under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as being obvious over Jensen, U.S. Patent No. 3,572,326.

Regarding claim 1, the Examiner asserted: “It is reasonable to consider element 34/35 as actuator because one can effectively move actuator 34/35 to move foot 48 in a manner as recited in the claim”.

Applicants respectfully traverse. Applicants respectfully submit that reference numerals 34 and 35 of Jensen refer to clamps, not actuators, e.g., see column 3, lines 54-55. Applicants respectfully submit that one of ordinary skill in the art would not consider a clamp to be an actuator, and that it is not reasonable to interpret clamps 34/35 as actuating any movement whatsoever. The clamps can only be used as locks to prevent movement of the shaft 33 or can be loosened to allow movement of the shaft 33. However, the clamps 34./35 do not actuate any movement.

To even more clearly define the invention and to prevent this unreasonable interpretation, Applicants have amended claim 1 to recite that the actuator actuates a drive mechanism interconnected between the first and second blades, wherein actuation of the actuator drives the mechanism, which drives the foot and one of the first and second retractor blades. Support for this amendment can be found, for example, at Figs. 33 and 35 and the descriptions thereof. It is respectfully submitted that Jensen does not describe an actuator or a mechanism as claimed, as Jensen only discloses a series of bars connected by clamps. The movements suggested by the Examiner would have to be performed by hand, as Jensen lacks a driving mechanism.

Claim 1 further recites an actuation mechanism directly connected between said foot and one of said first and second retractor blades, wherein upon moving said foot and one of said first and second retractor blades away from the other of said first and second retractor blades, said actuation mechanism moves said foot and said one of said first and second retractor blades vertically with respect to the other of said first and second retractor blades, transverse to the direction of the first axis. Support for this recitation can be found, for example in Figs. 33-34 and the descriptions thereof. It is respectfully submitted that Jensen clearly fails to disclose or suggest an actuation mechanism as claimed.

Claim 5 recites an actuator comprising a mechanism configured to convert a rotational movement to a translational driving force. Support for this amendment can be found, for example, at Figs. 33 and 35 and the descriptions thereof. It is respectfully submitted that Jensen does not describe an actuator comprising a mechanism configured to convert a rotational movement to a translational driving force for moving one of the first and second blades away from and toward the other.

Claim 14 has been amended above to recite a drive mechanism interlinked between said actuator and said drive member, wherein actuation of said actuator moves said drive mechanism to drive said drive member. Support for this amendment can be found, for example, at Figs. 33 and 35 and the descriptions thereof. It is respectfully submitted that Jensen does not describe or suggest a drive mechanism as claimed.

Claim 14 has been further amended to recite that said foot is rotatable relative to said second arm and said second blade in one rotational direction, and is prevented from rotating relative to said second arm and said second blade in an opposite rotational direction.—Support for this recitation can be found, for example in Figs. 33-34 and the descriptions thereof. It is respectfully submitted that Jensen clearly fails to disclose or suggest a foot that is rotatable relative to said second arm in one direction, but is prevented from rotating in an opposite direction, as claimed.

Accordingly, in view of the above remarks, the Examiner is respectfully requested to reconsider and withdraw the rejection of claims 1-3, 5-8 and 14-16 under 35 U.S.C. Section 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. Section 103(a) as being obvious over Jensen, U.S. Patent No. 3,572,326, as being inappropriate.

New Claims 28-31

New claims 28-31 have been submitted above. Support for claim 28 can be found, for example, at page 45, lines 11-19 of the specification, Figs. 33-34 and the descriptions thereof, and throughout the

specification and drawings. Support for claims 29-31 can be found, for example, in claims 5 and 27 (prior to the above amendment of claim 5), Figs. 33-34 and the descriptions thereof, and throughout the specification and drawings. The Examiner is respectfully requested to indicate the allowance of claims 28-30 in the next Official Action.

Conclusion

Applicants submit that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-2653, order number GUID-006CON5.

Respectfully submitted,

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